

STATE OF CONNECTICUT  
BOARD OF EXAMINERS FOR NURSING

Department of Public Health and Addiction Services v.

John F. Kling, LPN

License No. 023919

110 Green Hill Lane

Cheshire CT 06410

CASE PETITION NO. 930623-11-028

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Health Services (hereinafter the "Department") with a Statement of Charges and a Motion for Summary Suspension dated June 28, 1993.

The Statement of Charges alleged in one (1) count, violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by John Kling (hereinafter the "Respondent").

The Motion for Summary Suspension alleged that the continued nursing practice of the Respondent represented a clear and immediate danger to the public health and safety. (Department Exhibit 3)

The Board found that there was a clear and immediate danger based upon the evidence presented in the Motion for Summary Suspension.

The Board ordered the Summary Suspension of the Respondent's nursing license, and issued a Notice of Hearing dated June 30, 1993, scheduling a hearing for July 22, 1993. (Department Exhibit 3) The hearing took place on July 22, 1993 in Room 1-C, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record and their specialized professional knowledge in evaluating the evidence.

### **FACTS**

Based on the testimony given and the exhibits offered into evidence, the Board made the following findings of fact:

1. John Kling, hereinafter referred to as the Respondent, was issued Licensed Practical Nurse License Number 023919 on May 1, 1991 and was at all times referenced in the Statement of Charges the holder of said license. The Respondent's address of record is 110 Green Hill Lane, Cheshire, Connecticut 06410. (Department Exhibit 4)
2. The Respondent was aware of the time and location of the hearing. (Hearing Transcript, July 22, 1993, pp. 4-6). Department Exhibits 1 and 2 indicate that the Notice of Hearing was delivered by certified mail to the Respondent's address of record, and by Deputy Sheriff to a mailing address of the Respondent in Norwalk, Connecticut.
3. The Respondent was not present at the hearing and was not represented by counsel. (Hearing Transcript, July 22, 1993, p. 2)
4. That during January, February and March 1993 the Respondent was employed as a licensed practical nurse at Mediplex of Westport, Westport, Connecticut. (Department Exhibit 4)
5. That while employed as a licensed practical nurse at Mediplex of Westport, during January, February and March 1993, the Respondent on numerous occasions, signed out doses of controlled substances on proof of use sheets indicating that said medications were administered to patients, however, the Respondent failed to document administration of said medications in the patient's medication administration record and/or the PRN medication record and/or nursing notes. (Department Exhibit 4)

6. That on or about May 20, 1993 the Respondent verbally admitted to Department of Consumer Protection Drug Control Agents Sandra Fagan and Richard Moore to the conduct cited in FACT 5. (Department Exhibit 4, pp. 5-6)

### DISCUSSION AND CONCLUSIONS

In consideration of the above Findings of Fact, the following conclusions are rendered:

John Kling held a valid licensed practical nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, Notice of Hearing and Statement of Charges sufficiently provided information as mandated by the General Statutes of Connecticut Sections 4-177, 4-182 and 19a-17.

The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as 19-2a-1 through 19-2a-30 of the Regulations of Connecticut State Agencies. The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by the General Statutes of Connecticut Section 4-182(c).

The FIRST COUNT PARAGRAPH 3 of the Statement of Charges alleges that the Respondent, while working as a licensed practical nurse at Mediplex of Westport, Westport, Connecticut, during January 1993 and subsequent thereto:

- a. diverted Propoxyphene/Propoxyphene APAP, Xanax, Lorazepam, and/or Acetaminophen - codeine;
- b. abused or utilized to excess one or more of said medications; and/or
- c. failed to completely or properly or accurately make documentations in the medical or hospital records; and/or
- d. falsified one or more Controlled Substance Receipt Records.

The Respondent was not present at the hearing to answer to these charges. (Hearing Transcript, July 22, 1993, p. 2)

The Board concludes that the Department presented insufficient evidence to prove the allegations in the First Count Paragraph 3a, 3b, and 3d. Therefore, the First Count Paragraphs 3a, 3b and 3d are dismissed.

The General Statutes of Connecticut Section 20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

Based on its findings in FACTS 4-6 the Board concludes that the Respondent's conduct as specified in the First Count Paragraph 3c is proven and that said conduct violates the General Statutes of Connecticut Section 20-99(b)(2). Therefore, the Respondent is subject to disciplinary action pursuant to the General Statutes of Connecticut.

#### **ORDER**

Pursuant to its authority under the General Statutes of Connecticut Sections 19a-17 and 20-99, the Board of Examiners for Nursing hereby orders:

1. That the **Summary Suspension** of the Respondent's licensed practical license, No. 023919, ordered on **June 30, 1993** is hereby vacated.
2. That for the **First Count Paragraph 3c**, the licensed practical nurse license, No. 023919, of the Respondent be placed on probation for a period of one (1) year.
3. If any of the following conditions of probation are not met, the Respondent's license may be immediately revoked:

- A. He shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board will be notified in writing by his employer(s) within thirty (30) days as to receipt of a copy of this Memorandum of Decision.
- B. Should the Respondent change employment as a nurse at any time during the probationary period, he shall provide a copy of this Memorandum of Decision to his employer and said employer shall notify the Board in writing, within thirty (30) days, as to receipt of a copy of this Memorandum of Decision.
- C. The Respondent shall not accept employment as a nurse for a personnel provider service, Visiting Nurse Association or home health care agency for the period of his probation.
- D. If employed as a nurse, he shall cause bi-monthly employer reports to be submitted to the Board by his nursing supervisor (i.e. Director of Nursing) during the entire probationary period. Bi-monthly employer reports are due on the first business day of January, March, May, July, September and November. Bi-monthly reports shall commence with the report due November 1, 1993.
- E. Said reports cited in D above, shall include documentation of the Respondent's ability to safely and competently practice nursing and an evaluation of his ability to completely and accurately document the administration of medications. Said reports shall be issued to the Board at the address listed in paragraph J below.
- F. During the one (1) year period of probation the Respondent must complete a course of study, the subject matter of which pertains to medication administration and documentation. Said course must be approved by the Board prior to commencement.

- G. Certification of successful completion of the course cited in F above shall be submitted to the Board, directly from the educational institution where said course was taken, within thirty (30) days of the course completion.
- H. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- I. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- J. Any correspondence and reports are to be addressed to:

OFFICE OF THE BOARD OF EXAMINERS FOR NURSING  
Department of Public Health and Addiction Services  
150 Washington Street  
Hartford CT 06106

- 4. Any deviation from the terms of probation without prior written approval by the Board of Examiners for Nursing will constitute a violation of probation and will subject the Respondent to sanctions under the General Statutes of Connecticut Section 19a-17(a) and (c) including, but not limited to, the revocation of his license. Any extension of time or grace period for reporting granted by the Connecticut Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take action at a later time. The Connecticut Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to his address of record (most current address reported to the Licensure and Renewal Section of the Division of Medical Quality Assurance of the Department of Public Health and Addiction Services or the Connecticut Board of Examiners for Nursing).
- 5. This Memorandum of Decision becomes effective, and the one (1) year probation period of the Respondent's license shall commence, on the date this Memorandum of Decision is signed by Chairperson of the Board of Examiners for Nursing.

The Board of Examiners for Nursing informs the Respondent, John Kling, and the Department of Public Health and Addiction Services of the State of Connecticut of this decision.

Dated at Hartford, Connecticut, this 23rd day of September, 1993.

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BOARD OF EXAMINERS FOR NURSING

By

James D. White